

CENTERVILLE TOWNSHIP
Leelanau County, Michigan
LAND DIVISION ORDINANCE NO. 2014 - ____

An ordinance to regulate partitioning or division of parcels or tracts of land, enacted pursuant but not limited to Michigan Public Act 591 of 1997, Act 288 of 1967, as amended, and Act 246 of 1945, as amended, being the Township General Ordinance statute; to provide a procedure therefore; to repeal any ordinance or provision thereof in conflict herewith; and to prescribe penalties and enforcement remedies for the violation of this ordinance.

TOWNSHIP OF CENTERVILLE
LEELANAU COUNTY, MICHIGAN,
ORDAINS:

Section I

Title

This ordinance shall be known and cited as the Centerville Township Land Division Ordinance.

Section II

Purpose

The purpose of this ordinance is to carry out the provisions of the State Land Division Act [1967 PA 288, ("the Act") as amended, formerly known as the Subdivision Control Act], to prevent the creation of parcels of property which do not comply with applicable ordinances and said Act, to minimize potential boundary disputes, to maintain orderly development of the community, and otherwise provide for the health, safety and welfare of the residents and property owners of the Township by establishing standards for prior review and approval of land divisions within the Township.

Section III

Definitions

Certain words and phrases used in this ordinance shall have the meanings stated in this section. Other words and phrases, if defined by the Act, shall have the meanings stated in the Act.

A. Accessible - the parcel meets 1 or both of the following requirements:

1. Has an area where a driveway provides vehicular access to an existing road or street and meets all applicable location standards of the state transportation department or county road commission.
2. Is served by an existing easement that provides vehicular access to an existing road or street that meets all applicable location standards of the state transportation department or county road commission, or can be served by a proposed easement that will provide vehicular access to an existing road or street and that will meet all such applicable location standards.

B. Administrator - the Centerville Township employee or other individual designated by the Township Board to administer this ordinance.

C. Applicant - a person, firm, association, partnership, corporation, entity or combination of any of them that holds an ownership in land whether recorded or not.

D. Divide or division - the partitioning or splitting of a parcel or tract of land by the proprietor thereof or by his or her heirs, executors, administrators, legal representatives, successors or assigns, for the purpose of sale or lease of more than one year, or of building development that results in one

or more parcels of less than 40 acres or the equivalent, and that satisfies the requirements of Sections 108 and 109 of the State Land Division Act. "Divide" and "division" does not include a property transfer between two or more adjacent parcels, if the property taken from one parcel is added to an adjacent parcel; and any resulting parcel shall not be considered a building site unless the parcel conforms to the requirements of the State Land Division Act, and the requirements of other applicable local ordinances.

- E. Exempt split or exempt division** - the partitioning or splitting of a parcel or tract of land by the proprietor thereof, or by his or her heirs, executors, administrators, legal representatives, successors or assigns, that does not result in one or more parcels of less than 40 acres or the equivalent; provided all resulting parcels are accessible for vehicular travel and utilities from existing public roads through existing adequate roads or easements, or through areas owned by the owner of the parcel that can provide such access.
- F. Forty acres or the equivalent** - either 40 acres, a quarter-quarter section containing not less than 40 acres, or a government lot containing not less than 30 acres.
- G. Parcel** - a contiguous area of land which can be described as stated in Section 102(g) of the Act.
- H. Parent parcel or parent tract** - a parcel or tract, respectively, lawfully in existence on March 31, 1997.
- I. Resulting parcel(s)** - one or more parcels which result from a land division.
- J. Tract** - two or more parcels that share a common property line and are under the same ownership.

Section IV

Prior Approval Requirement for Land Divisions

Land in the Township shall not be divided without the prior review and approval of the Administrator in accordance with this ordinance and the State Land Division Act; provided that the following shall be exempted from this requirement:

- K.** A parcel proposed for subdivision through a recorded plat pursuant to the State Land Division Act.
- L.** A lot in a recorded plat proposed to be divided in accordance with the State Land Division Act.
- M.** An exempt split as defined in this ordinance, or other partitioning or splitting that results in parcels of 40 acres or more if each is not accessible and the parcel was in existence on March 31, 1997, or resulted from exempt splitting under the Act.

Section V

Application for Land Division Approval

An applicant shall file all of the following with the Administrator for review and approval of a proposed land division before making any division either by deed, land contract, lease for more than one year, or for building development:

- A.** A completed application form on such form as may be approved by the Township board, including any exhibits described therein.
- B.** Proof of fee ownership of the land proposed to be divided, or written consent to the application, signed by the owner of such land.
- C.** A survey map of the land proposed to be divided, prepared by a land surveyor licensed by the State of Michigan, drawn to scale including an accurate legal description of each proposed division, and showing the boundary lines, approximate dimensions, and the accessibility of each division for automobile traffic and public utilities.
- D.** Proof that all standards of the State Land Division Act and this ordinance have been met.
- E.** A drawing or written description of all previous land divisions from the same parent parcel or parent tract, identifying the number, area, and date of such divisions.
- F.** Proof that all due and payable taxes or installments of special assessments pertaining to the land proposed to be divided are paid in full.
- G.** If a transfer of division rights is proposed in the land transfer, detailed information about the terms and availability of the proposed division rights transfer.
- H.** Unless a division creates a parcel which is acknowledged and declared to be “not buildable” under Section VIII of this Ordinance, all divisions shall result in “buildable” parcels containing sufficient “buildable” area outside of unbuildable wetlands, flood plains and other areas where buildings are prohibited there from, and with sufficient area to comply with all required setback provisions, minimum floor areas, off-street parking spaces, on-site sewage disposal and water well locations (where public water and sewer is not available), and maximum allowed area coverage for buildings and structures on the site.
- I.** Payment of an application fee established by resolution of the Township board to cover the costs of review of the application and administration of this ordinance and the State Land Division Act.
- J.** Copies of any instruments or documents describing or granting any easements or other access to the divisions for purposes of automobile traffic and public utilities.
- K.** One original and one copy of the application and all supporting documents.

Section VI

Procedure for Review of Applications for Land Division Approval

- A.** The Administrator shall review the application with Township personnel such as the Zoning Administrator and Tax Assessor for purposes of determining compliance with this ordinance. The Administrator shall then approve or disapprove the land division applied for within 45 days after receipt of a complete application conforming to this ordinance's requirements and the State Land Division Act. The Administrator shall promptly notify the applicant of the decision, and if denied, the reasons for denial.
- B.** Any person or entity aggrieved by the decision of the Administrator may, within 30 days of said decision, appeal the decision to the Zoning Board of Appeals which shall consider and resolve such appeal by a majority vote of said board at its next regular meeting or session affording sufficient time for a 20 day written notice to the applicant (and appellant where other than the applicant) of the time and date of said meeting and appellate hearing.
- C.** Approval of a division is a determination that the resulting parcels comply with other ordinances or regulations.

- D. The Township and its officers and employees shall not be liable for approving a land division if building permits for construction on the parcels are subsequently denied because of inadequate water supply, sewage disposal facilities or otherwise, and any notice of approval shall include a statement to this effect.
- E. A decision approving a land division is effective for 90 days, after which it shall be considered revoked unless within this period a document is recorded with the County Register of Deeds office and filed with the Administrator.
- F. The Administrator shall maintain an official record of all approved and accomplished land divisions or transfers.

Section VII

Standards for Approval of Land Divisions

A proposed land division reviewable by the Township shall be approved if the following criteria are met:

- A. The ratio of depth-to-width of any parcel created by the division does not exceed a four-to-one ratio. The depth and width of a parcel to be created by a land division shall be measured in the same manner provided by the applicable zoning ordinance for the measuring of the minimum width and maximum depth of parcels. This depth-to-width ratio requirement does not apply to a parcel larger than 40 acres and does not apply to the remainder of the parent parcel or parent tract retained by the proprietor.
- B. All parcels created by the proposed division(s) must also meet all applicable township zoning requirements.
- C. The proposed land division(s) comply with all requirements of this ordinance and the State Land Division Act.
- D. All parcels created and remaining have existing adequate accessibility, or an area available therefore, for public utilities and emergency and other vehicles. Such means of access shall comply with all applicable location standards of the governmental authority having jurisdiction of the existing street or road, and shall otherwise be "accessible" as that term is defined in Section 102(j) of the Land Division Act.

Section VIII

Allowance for Approval of Other Land Divisions

Notwithstanding disqualification from approval pursuant to this ordinance, a proposed land division which does not fully comply with the applicable lot, yard, accessibility and area requirements of the applicable zoning ordinance or this Ordinance may be approved in any of the following circumstances.

- A. Where the applicant executes and records an affidavit or deed restriction with the County Register of Deeds, in a form acceptable to the municipality, designating the parcel as "not buildable". Any such parcel shall also be designated as "not buildable" in the municipal records, and shall not thereafter be the subject of a request to the Zoning Board of Appeals for a variance relief from the applicable lot and/or area requirements, and shall not be developed with any building or above ground structure exceeding four feet in height.
- B. Where, in circumstances not covered in paragraph A above, the Zoning Board of Appeals has, previous to this Ordinance, granted a variance from the lot, yard, ratio, frontage and/or area requirements with which the parcel failed to comply.
- C. Where the proposed land division involves only the minor adjustment of a common boundary line or involves a conveyance between adjoining properties which does not result in either parcel violating this Ordinance, any applicable zoning ordinance, or the State Land Division Act.

Section IX

Consequences of Noncompliance with Land Division Approval Requirement

- A.** Any division of land in violation of any provision of this ordinance shall not be recognized as a land division on the Township tax roll and no construction thereon which requires the prior issuance of a construction or building permit shall be allowed. The Township shall further have the authority to initiate injunctive or other relief to prevent any violation or continuance of any violation of this ordinance.
- B.** A violation of this ordinance is a Municipal Civil Infraction.
- C.** The Administrator of this ordinance, the Zoning Administrator, and the Township Supervisor are each authorized to enforce this ordinance and are authorized to issue citations for violations. The issuance of a citation for a municipal civil infraction shall not in any way limit the Township from seeking enforcement of this ordinance in any other manner and to recover any costs, expenses, damages, and fees, including attorney fees, that may be permitted or allowed by law in connection with the enforcement of this ordinance.

Section X

Severability

The provisions of this ordinance are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable for any reason by any court of competent jurisdiction, it shall not affect any portion of this ordinance other than said part or portion thereof

Section XI

Repealer

All previous land division ordinances affecting unplatted land divisions in conflict with this ordinance are hereby repealed; however, this ordinance shall not be construed to repeal any provision in any applicable zoning ordinance, building codes or other ordinances of the Township or any other municipal body which shall remain in full force and effect notwithstanding any land division approval hereunder.

Section XII

Effective Date

This ordinance shall become effective following publication as required by law.

Clerk's Certification:

I hereby certify that this ordinance was adopted by the Centerville Township Board at a regular meeting held on June 11, 2014, and that the vote was as follows: AYES=5, NO=0

I further certify that this ordinance, or a summary thereof, was published in the Leelanau Enterprise on June 19, 2014.

David Wurm
Centerville Township Clerk

CENTERVILLE TOWNSHIP PARCEL DIVISION APPLICATION

Post Office Box 226, Lake Leelanau, MI 49653

231-360-2557

Twp. Z.A. No. _____

Date Received: _____

Please answer all questions **and** include all attachments.

Mail to CENTERVILLE TOWNSHIP at the above address or deliver to the Zoning Administrator.

Approval of a division of land is required before it is sold, when a new parcel is less than 40 acres and not just a property line adjustment (Sec 102 e & f)

This form is designed to comply with Sec. 108 and 109 of the Michigan Land Division Act (formerly the subdivision control act P.A.288 of 1967 as amended particularly by P.A 591 of 1996 and PA 87 of 1997, MCL 560.101 et.seq.)

(Approval of a division is not a determination that the resulting parcels comply with other ordinances or regulations.)

1. LOCATION of PARENT to be split: Address: _____ Road Name: _____

PARENT PARCEL IDENTIFICATION NUMBER: _____

Parent Parcel Legal Description (DESCRIBE OR ATTACH): _____

2. PROPERTY OWNER INFORMATION:

Name: _____ Address: _____

City: _____ State: _____ Phone (____) _____ Zip: _____

3. APPLICANT information (if not the property owner):

Name: _____ Address: _____

City: _____ State: _____ Phone (____) _____ Zip: _____

4. PROPOSED DIVISION(S) TO INCLUDE THE FOLLOWING:

A. Number of new Parcels _____

B. Intended use (residential, commercial, etc.) _____

C. Each proposed parcel, has a depth to width ratio of 4 to 1 as provided by ordinance.

D. Each parcel has a width of _____ (not less than required by ordinance)

E. Each parcel has an area of _____ (not less than required by ordinance)

F. The division of each parcel provides access as follows: (check one)

____ Each new division has frontage on an existing public road. road name: _____

____ A new public road, proposed road name: _____

____ A new private road, proposed road name: _____

G. Describe or attach a legal description of proposed new road, easement or shared driveway: _____

H. Describe or attach a legal description for each **proposed new parcel**: _____

4. FUTURE DIVISIONS number allowed but not included in this application _____

Did the parent have any unallocated divisions under the Land Division Act? _____

Were any unallocated divisions transferred to the newly created parcel(s): _____ If yes, how many? _____

Identify the other parcel that future divisions are transferred to: _____

(See section 109 (2) of the Statute. Make sure your deed includes both statements as required in 109 (3 & 4) of the Statute.)

5. DEVELOPMENT SITE LIMITS (Check each which represent a condition which exists on the parent parcel:

_____ Waterfront property (river, lake, pond etc.) _____ Includes wetlands _____ Is a DNR critical sand dune
_____ Is within a flood plain _____ Includes a beach _____ Includes slopes > 25%
_____ Is on muck soils or soils known to have severe limitations for on site sewage system

6. ATTACHMENTS - All the following attachments **MUST** be included. Letter each attachment as shown:

- A. 1. A survey completed by a professional surveyor of proposed division(s) of parent parcel
OR
2. A scale drawing for the proposed division(s) of the parent parcel and the 30 day time limit is waived

The survey or drawing must show all of the following:

- (1) current boundaries (as of March 31, 1997), and
- (2) all previous divisions made after March 31, 1997 (indicate when made or none), and
- (3) the proposed division(s), and
- (4) dimensions of the proposed divisions, and
- (5) existing and proposed road/easement right-of-way(s), and
- (6) easements for public utilities from each parcel that is a development site to existing public utility facilities, and
- (7) any existing improvements (buildings, wells, septic system, driveways, etc.)
- (8) any of the features checked in question number 5.

B. A septic system permit for each proposed parcel prepared by the Health Department

C. A well permit for each proposed parcel prepared by the Health Department

D. Indication of approval, or permit from the appropriate county road commission, Michigan Department of Transportation that a proposed easement provides vehicular access to an existing road or street meets applicable location standards.

E. A copy of any reserved division rights (sec. 109 (2) of the act) in the parent parcel.

F. Fee for each division payable to Centerville Township Treasurer. (This application must be accompanied by the appropriate fee as established by the Township Board, and published in the Township Fee Schedule).

7. IMPROVEMENTS - Describe any existing improvements (buildings, well, septic, etc., which are on the parent parcel or indicate none): _____

8. ACKNOWLEDGMENT-and permission for local officials to enter the property for inspections:

The undersigned asserts that the above statements are true and if found not to be true this application and any approval will be void. Further, I agree to comply with the conditions and regulations provided with this parent parcel division. I acknowledge that any approval of the within application is not a determination that the resulting parcels comply with other applicable ordinances, rules or regulations which may control the use or development of the parcels. It is also understood that ordinances, laws and regulations are subject to change and that any approved parcel division is subject to such changes that may occur before the recording of the division or the development of the parcels.

Property Owner's Signature _____ **Date:** _____
Do not write below this line

Reviewer's action: _____ **Total Fee \$** _____ **Check #** _____

_____ **Approved:** _____ **Conditions, if any:** _____

_____ **Denied:** _____ **Reasons** _____

Zoning Administrator Signature: _____ **Date:** _____
Land Division Application May 2009

Land Division in Centerville Township

Public Act 591 of 1996, which took effect March 31, 1997, revised the Subdivision Control Act and renamed it the Land Division Act. The Land Division Act (LDA) regulates the way land can be divided in Michigan. The LDA gives Township officials the responsibility of reviewing and approving land divisions prior to the recording of a land division or property line adjustments.

Before a parcel of land in Centerville Township can be divided, or property lines adjusted (land transfers), the landowner or applicant must complete and submit a Land Division Application to the Township.

The application will then be reviewed to assure compliance with the requirements of the Land Division Act, the Centerville Township Land Division Ordinance, and the Centerville Township Zoning Ordinance. The LDA allows Centerville Township officials 45 days to review the completed application. The 45 day time span does not begin until the application is deemed complete by the Zoning Administrator. Applications determined to be incomplete will be returned with a letter stating the missing information or component.

If the application for parcel division is determined to meet all requirements, the applicant will be notified of the approval in writing.

Frequently asked questions:

Are there any cases in which a division of a parcel land may be considered exempt from the requirements of the LDA?

A division of a parcel of land may be considered exempt from the requirements of the LDA under certain circumstances. However, all types of land division transactions must comply with the Centerville Township Land Division Ordinance and approved through the Land Division Application process. Please check with the Zoning Administrator to determine the proper procedure for your type of parcel division transaction.

What is the maximum number of divisions allowed?

The maximum number of divisions permitted for a parcel of land is regulated by the Land Division Act and the Centerville Township Land Division and Zoning ordinances. The LDA permits splits based on the size of the parent parcel, the number of previous splits after 1997, the size of the resulting lots, and the provision of new access. Bonus divisions may be applied in certain situations.

In some cases the LDA may allow more divisions than the Zoning Ordinance will permit. Since land divisions must comply with local zoning requirements, the regulations of the Zoning Ordinance effectively supersede. It is important that property owners or applicants educate themselves about the specific zoning district regulations that apply to their property. Zoning district regulations limit minimum lot size, proportions, road frontage and setbacks. All newly created parcels of land must meet the requirements of the designated zoning district. The zoning regulations for specific zoning districts are available from the Centerville Township website at:

<http://www.leelanau.cc/centervilletwp.asp>

What are the application requirements for parcel divisions?

In addition to the completed application form, the following items must be submitted with the application:

1. A certified survey of proposed division(s) of the parent parcel/tract showing:
 - a. Boundaries and dimensions as of March 31, 1997
 - b. All previous divisions with dimensions made after March 31, 1997
 - c. The proposed divisions with dimensions
 - d. Existing and proposed roads, driveways, easements and rights-of way for ingress/egress and public utilities
 - e. Existing improvements including, but not limited to buildings, wells, septic systems, etc.
 - f. Distances between existing buildings and the property lines of the parcel to be divided and proposed new property lines.
 - g. Indicate on survey the location of any of the development site limitations checked in item d.
2. If applicable, a list of the names and addresses of all persons having an interest in the parcel/tract to be divided, and a statement of the type of interest each holds. For a corporation or LLC a notarized statement of authorization from the owner or managing member is needed.
3. A written history of all previous divisions made after March 31, 1997.
4. Proof of ownership (copy of the land contract or deed) to prove that owner has right to divide parcel or tract.
5. Indication of approval, or permit from Leelanau County Road Commission, MDOT, or respective city/village street administrator, for each proposed new road, easement or driveway.
6. Indication of approval or permit from Benzie-Leelanau Health District for well and septic.
7. Indication of approval, or permit from Leelanau Conservation District (soil erosion), if required
8. A copy of any reserved division rights (§109(2) of the Act) in the parent parcel.
9. The required fee according to the Centerville Township Zoning Fee Schedule.

After a land division has been approved by the Township, is the process complete?

No. After the application for division has been approved by the Township, the applicant must record the proper documentation with the Leelanau County Register of Deeds, including legal descriptions of the divisions or property transfers. The deed should also include the statements from the land act Section 109 (3&4)

- “The grantor grants to the grantee the right to make (insert #) divisions under section 108 of the land division act, No 288 of the Public Acts of 1967”
- “This property may be located within the vicinity of farmland or a farm operation. Generally accepted agricultural and management practices may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan right to farm act.”

Copies of the recorded documents must be given to the Township Zoning Administrator. If the proper documents have not been recorded within 90 days of the land division approval, the approval shall expire and a new approval will be required.

Does land division approval guarantee that all parcels created by the division will be buildable?

No. Parcel division approval does not convey 'use' approval. There may be conditions present on a parcel that cause it to be labeled 'unbuildable' according to other regulatory standards, even if it meets the minimum lot area, width, and depth-to-width standards of the Zoning Ordinance.

**For further information please contact the Zoning Administrator at
231-360-2557
or e-mail to: tim@allpermits.com**